

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

J.A., individually and on
behalf of her minor child
J.A.,

Plaintiffs,

V.

MONROE TOWNSHIP BOARD
OF EDUCATION; NEW JERSEY
DEPARTMENT OF EDUCATION;
KEVIN DEHMER, Interim
Commissioner of Education;
and NEW JERSEY OFFICE OF
ADMINISTRATIVE LAW

Defendants.

No. 1:20-cv-09498-NLH-MJS
No. 1:21-cv-06283-NLH-MJS
(Consolidated)

OPINION AND ORDER

HILLMAN, District Judge

WHEREAS, on July 28, 2020 Plaintiffs Joanna A.¹ and her child, J.A., (collectively "Plaintiffs") filed a complaint against Defendant Monroe Township Board of Education ("MTBOE") and others alleging violations of the Individuals with Disabilities Education Act ("IDEA"), Americans with Disabilities Act ("ADA"), New Jersey Law Against Discrimination ("NJLAD"), and rules and regulations applicable to due process cases in special education matters, among other claims, (1:20-cv-09498, ECF 1); and

WHEREAS, on March 23, 2021 Plaintiffs filed a complaint

¹ The Court refers to co-Plaintiff Joanna A. by the name provided in the caption to the complaint filed under Docket No. 1:21-cv-06283. (1:21-cv-06283, ECF 1).

alleging, among other claims, denial of a Free Appropriate Public Education pursuant to IDEA, violations of the ADA, NJLAD, and other statutes; and violations of various procedural, discovery, and evidentiary rules, (1:21-cv-06283, ECF 1); and

WHEREAS, in a March 22, 2022 opinion under a separate docket number, the Court consolidated the two cases, (1:18-cv-09580, ECF 94 at 8, 10; ECF 95), and Magistrate Judge Matthew J. Skahill thereafter amended the case caption and directed that all future filings be made with the consolidated caption under docket number 1:20-cv-09498, (1:20-cv-09498, ECF 110; 1:21-cv-06283, ECF 69); and

WHEREAS, on December 9, 2022, MTBOE moved for summary judgment as to the claims asserted under Docket No. 1:20-cv-09498, (1:20-cv-09498, ECF 129); and

WHEREAS, on January 11, 2023, MTBOE moved for partial summary judgment as to claims asserted under Docket No. 1:21-cv-06283, (1:20-cv-09498, ECF 171); and

WHEREAS, in their oppositions, Plaintiffs argue that the Court should deny both motions with prejudice for failure to abide by the page limits set forth in the Local Civil Rules, (1:20-cv-09498, ECF 146 at 6; ECF 178 at 7-8); and

WHEREAS, MTBOE, in its replies, asserts that it "did not violate the spirit of" the Local Civil Rules because it sought permission to file overlength briefs before doing so and the

requests and lengths of the briefs ultimately filed were reasonable given the number of claims asserted by Plaintiffs, (1:20-cv-09498, ECF 150 at 1-3; ECF 190 at 2-4); and

WHEREAS, the Local Civil Rules impose a forty-page limit on briefs exclusive of tables of contents and authorities provided that the typeface is in a twelve-point nonproportional font such as Courier New or an equivalent fourteen-point proportional font such as Times New Roman, L. Civ. R. 7.2(b), (d); and

WHEREAS, "[b]riefs of greater length will only be accepted if special permission of the Judge is obtained prior to submission of the brief," L. Civ. R. 7.2(b); and

WHEREAS, this Court has recognized both that overlength briefs may be disregarded or struck and its own preference of reserving such measures "for only the most egregious violations of the Local Civil Rules," see Capaldi v. BJ's Wholesale Club, Inc., No. 1:18-cv-10615, 2020 WL 2569965, at *2-3 (D.N.J. May 21, 2020) (denying the defendant's motion to preclude supported by an eighty-three-page brief for violating Local Civil Rule 7.2); and

WHEREAS, denial for failure to comply with Local Civil Rule 7.2 has been applied in the context of a motion for summary judgment, see Anise v. JPMorgan Chase Bank, No. 16-8125, 2016 WL 9281267, at *1 (D.N.J. Nov. 29, 2016) (denying without prejudice the plaintiff's motion for summary judgment for, among reasons,

including a fifty-two-page brief in violation of Local Civil Rule 7.2(b)); and

WHEREAS, MTBOE filed a letter request to file an overlength brief on Tuesday, December 6, 2022, (1:20-cv-09498, ECF 128), which this Court did not grant prior to MTBOE filing a motion for summary judgment accompanied by a seventy-nine-page supporting brief on Friday, December 9, 2022, (1:20-cv-09498, ECF 129; ECF 129-2); and

WHEREAS, MTBOE filed a letter request to file an overlength brief on Sunday, January 8, 2023, (1:20-cv-09498, ECF 165), which this Court did not grant before MTBOE filed its motion for partial summary judgment accompanied by a fifty-one-page supporting brief on Wednesday, January 11, 2023, (1:20-cv-09498, ECF 171; ECF 171-1); and

WHEREAS, though this Court strongly prefers to adjudicate matters on the merits, see Fisher v. Pratt, No. 19-273, 2020 WL 773262, at *3 n.7 (D.N.J. Feb. 18, 2020) (declining to strike or disregard a sur-reply for which permission was not obtained by the plaintiff or the defendants' overlength reply brief in favor of "consider[ing] both parties' submissions in total . . . giv[ing] both parties the benefit of their complete advocacy in this matter"), the Court concludes that MTBOE's motions are violative of Local Civil Rule 7.2 in both text and spirit as MTBOE sought, but did not receive, the Court's permission only

days before filing overlength submissions, one nearly double the maximum page length, see L. Civ. R. 7.2(b) (stating that overlength briefs may only be accepted after "special permission of the Judge is obtained" (emphasis added)); and

WHEREAS, the Court nonetheless disagrees with Plaintiffs' position that MTBOE's procedural violations necessitate denial of its motions with prejudice, (1:20-cv-09498, ECF 146 at 6; ECF 178 at 7-8), and instead holds that "the proper remedy is to deny [MTBOE's] motion[s], without prejudice, compelling [MTBOE] to reconsider its arguments and shorten them to a length permissible under Local Civil Rule 7.2," Capaldi, 2020 WL 2569965, at *3.²

THEREFORE,

IT IS HEREBY on this 22nd day of August, 2023

ORDERED that MTBOE's motions for summary judgment and partial summary judgment, (1:20-cv-09498, ECF 129; ECF 171), are denied without prejudice. MTBOE may refile its motions with briefs compliant with the page restrictions provided in Local Civil Rule 7.2.

At Camden, New Jersey

s/ Noel L. Hillman
NOEL L. HILLMAN, U.S.D.J.

² The Court acknowledges that shortly after filing both motions for summary judgment, MTBOE filed motions to seal related materials. (1:20-cv-09498, ECF 130; ECF 177). The Court will rule on these and other pending motions in a separate forthcoming opinion and order.